

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
February 26, 2013**

1. Present

Commissioners:

Bill Taylor, Chair
Curtis Seebeck, Vice Chair
Chris Wood
Kenneth Ehlers
Carter Morris
Corey Carothers
Bucky Couch
Travis Kelsey

City Staff:

Kristy Stark, Development Services Assistant Director
Sam Aguirre, Assistant City Attorney
Francis Serna, Recording Secretary
John Foreman, Planning Manager
Amanda Hernandez, Senior Planner
Alison Brake, Planner
Emily Koller, Planner

Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday February 26, 2013, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

Chairperson's Opening Remarks.

Chair Taylor welcomed the audience and viewers.

NOTE: *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session.*

3. 30 Minute Citizen Comment Period

Jaimy Breihan, San Marcos Texas thanked the Commission for a good job. He added that it is not a personal thing for him although he came before the Commission on issues in his neighborhood concerning compatibility. He pointed out that the same issues have been brought up across town. Mr. Brieihan stated that he was glad the citizens have come forth to speak and hopes that the Commission will realize that we are a community. He said he wants the community feeling to come back to San Marcos.

Consent Agenda:

4. PC-12-37(03) (Sienna Pointe) Consider a request by Jim Shaw on behalf of James Pendergast, Donna Marie Neuhaus, and Toribio Torres for approval of a final plat, and associated subdivision improvement agreement, of approximately 22.001 acres out of the J.M. Veramendi Survey League No. One, Abstract 17, establishing Sienna Pointe, located near the intersection of Hunter Road and McCarty Lane.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Couch the Commission voted on consent to approve PC-12-37(03).

Public Hearings:

5. Comprehensive (Master) Plan. Hold a Public Hearing and consider a recommendation to the City Council for adoption of the Final Draft of the Comprehensive (Master) Plan - Vision San Marcos: A River Runs Through Us - to guide the growth and development of the City of San Marcos.

John Foreman, Planning Manager introduced members of the Committees, Jane Hughson, Chair, Lisa Prewitt and Betsy Robertson, Vice Chairs.

Betsy Robertson, Co-Vice Chair, Citizens Advisory Committee presented the final draft of the Comprehensive Master Plan and gave an overview of the Process.

Lisa Prewitt, Vice Chair gave a summary of the Comprehensive Master Plan Elements.

Jane Hughson, Chair, Citizen Advisory Committee, gave a summary of The Tools of the Comprehensive Master Plan.

Chair Taylor opened the public hearing. Jaimy Breihan, San Marcos Texas stated that he is excited that a lot of good citizens came together to put together a good plan. He said he hopes that everyone can begin to find security with the new Comprehensive Master Plan. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Kelsey the Commission voted eight (8) for and none (0) against to return the Comprehensive Plan to the Steering Committee and the Citizen's Advisory Committee to discuss inclusion of additional language about The University and Workforce Development and Poverty, require specific input on these topics is to be turned in to Planning staff by Friday, March 1, 2013 and hold a public hearing and action on the Comprehensive Master Plan be placed on the March 26th Planning Commission Agenda.

There was a 12 minute recess.

6. CUP-12-04 (Freebird's World Burrito) Hold a public hearing and consider a request by Freebird's World Burrito for renewal of a Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 909 State Highway 80, Suite C.

Alison Brake, Staff Planner gave an overview of the project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Carothers the Commission voted all in favor to approve CUP-12-04 with the conditions that the CUP is valid for the life of the TABC license, provided standards are met, subject to the point system.

7. CUP-13-05 (The Rooftop on the Square) Hold a public hearing and consider a request by Brandon Cash, on behalf of The Rooftop on the Square, for renewal of an existing Restricted Conditional Use Permit to allow the continued sale of mixed beverages for on-premise consumption at 126 South Guadalupe.

Amanda Hernandez, Staff Senior Planner gave an overview of the project.

Chair Taylor opened the public hearing.

John Hohn, owner of The Professional Building at 110 E. San Antonio located directly across the establishment. He explained that he purchased the building 23 years ago and started a law practice. He pointed out that he has been successful. Mr. Hohn said that his office is within 200 feet of the business and any noise is a direct hit to his office. He said other business owners have joined him in sending the Commission comments about the conduct of the business and the negative effect it has to the businesses. He felt that Rooftop does not want to comply with the requirements. Mr. Hohn stated that he has read and is in support of staff's recommendation to give the business the opportunity to come into compliance. He added that he was authorized to represent, Kelly Kilburn, whose office is 75' feet from the business. Mr. Hohn explained that Mr. Kilburn has called the businesses owners and asked them to tone down the music.

Brandon Cash, owner of Rooftop of the Square apologized to Mr. Hohn and said he was not aware of the issue and that he would address the issues. He explained that the hours of operation are currently 5:00 p.m. to 1:00 a.m. every day and that they are closed on Monday. He mentioned that he would check the sign on the door and correct the hours. Mr. Cash pointed out that they did have issues opening the kitchen when they first opened but has rectified the issues with the Health Department. Mr. Cash stated that he feels that he is in compliance concerning the food service of the businesses. He added that he also felt he is in compliance of the noise ordinance. He explained that he has met with the Building Officials and Fire Inspections. Mr. Cash pointed out that when he met with staff he felt that the exterior loud speakers were not an issue and that his intent was to not have live music. He added they want to be treated fairly and be in compliance and want to be around for a long time.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Morris the Commission voted three (3) for and five (5) against to deny CUP-13-05. The motion failed. Commissioners Carothers, Couch, Kelsey, Taylor and Wood dissented.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Morris the Commission voted eight (8) for and none (0) against to approve CUP-13-05 with the conditions that the CUP be valid for three (3) months, subject to the point system, subject to all requirements in Section 4.3.4.2, no live music and no speakers in the outdoor and patio area highlighted in Exhibit A.

8. CUP-13-08 (Eskimo Hut) Hold a public hearing and consider a request by Eskimo Hut, for renewal of a Conditional Use Permit to allow the sale of beer and wine for on-premise consumption and an amendment to reflect the change in ownership of the business at 216 N. Edward Gary Street.

Alison Brake, Staff Planner, gave an overview of the project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Carothers and a second by Commissioner Kelsey the Commission voted all in favor to approve CUP-13-08 with the conditions that the CUP is valid for one (1) year, provided standards are met, subject to the point system.

9. LDC-13-02 (SmartCode Design Standards) Hold a public hearing and consider revisions to Article 6 of Subpart C of the City Code (the SmartCode) to modify the language for deviations from the requirements of the Downtown Design Standards.

Emily Koller, Staff Planner gave an overview of the project.

Chair Taylor opened the public hearing. Jay Hiebert stated he was concerned regarding the judgement for administrative approval and that P&Z will not review of the warrant. Mr. Hiebert expressed concerns that the administrative approval of the SmartCode at the Development Director. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Kelsey, the Commission voted at in favor to approve revisions to Article 6 of Subpart C of the City Code (the SmartCode) to modify the language for deviations from the requirements of the Downtown Design Standards.

Non-Consent

10. Development Guide Presentation

Kristy Stark presented the new Development Guide which provides an overview of the development process.

11. Development Services Report

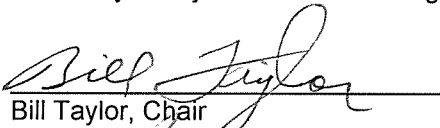
There was no report.

12. Question and Answer Session with Press and Public. *This is an opportunity for the press and public to ask questions related to items on this agenda.*

There were no questions from the press and public.

13. Adjourn.

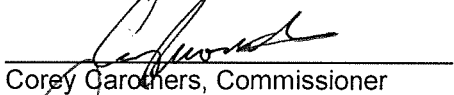
Chair Taylor adjourned the Planning and Zoning Commission at 9:07 p.m. on Tuesday, February 26, 2013.


Bill Taylor, Chair


Curtis Seebeck, Vice Chair


Chris Wood, Commissioner


Kenneth Ehlers, Commissioner



Corey Garofano, Commissioner


Bucky Couch, Commissioner


Carter Morris, Commissioner


Travis Kelsey

ATTEST:


Francis Serna, Recording Secretary